

# **Rail Safety National Law National Regulations (Miscellaneous) Variation Regulations 2017**

under the *Rail Safety National Law*

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## **Part 1—Preliminary**

### **1—Short title**

These regulations may be cited as the *Rail Safety National Law National Regulations (Miscellaneous) Variation Regulations 2017*.

### **2—Commencement**

These regulations will come into operation on the day on which the *Rail Safety National Law (South Australia) (Miscellaneous No 3) Amendment Act 2017* comes into operation.

### **3—Variation provisions**

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

## **Part 2—Variation of *Rail Safety National Law National Regulations 2012***

### **4—Variation of regulation 7—Railways to which Law does or does not apply**

Regulation 7(1)(a)—delete "for the North West Rail Link Project" and substitute:

by or on behalf of a public transport agency constituted under the *Transport Administration Act 1988* of New South Wales

## 5—Variation of Schedule 3—Fees

- (1) Schedule 3, Part 1, table, descriptions for items 1 to 9 (inclusive) —after "Application" wherever occurring insert in each case:  
fee

- (2) Schedule 3, Part 1, table—after the entry relating to item 1 insert:

	<b>Section</b>	<b>Description</b>	<b>Fee</b>
1A	64(5)	Application (complex operations) fee for accreditation	\$80 000

- (3) Schedule 3, Part 2, clause 1(1)—delete "Pursuant to section 76(1)" and substitute:

For the purposes of section 76

- (4) Schedule 3, Part 2, clause 1—after subclause (1) insert:

- (1a) The Regulator may determine that an accredited person must pay, in addition to the fee calculated under subclause (1) in respect of a particular financial year, an additional fee (a **project component fee**) in respect of that year, being 1 or more of the following fees:

- (a) \$198 000;
- (b) \$140 000;
- (c) \$93 000.

- (1b) For the purposes of subclause (1a), in determining whether a project component fee is payable in respect of a particular financial year by an accredited person in relation to the person's railway operations (and, if so, which fee or fees), the Regulator must take into account the following factors:

- (a) whether the railway operations, or any part of the railway operations, involve the introduction of new rolling stock or rail infrastructure not previously used in Australia;
- (b) whether the railway operations, or any part of the railway operations, involve the introduction of safety critical systems or other rail technology not previously used in Australia;
- (c) the complexity of any contract delivery or system integration in relation to the railway operations, or any part of the railway operations;
- (d) the extent of any change required to the safety management system or network rules in respect of the railway operations, or any part of the railway operations;
- (e) the extent of any new safety risks identified in relation to the railway operations, or any part of the railway operations,

and the anticipated impact that those factors will have on the regulatory oversight that may be required by the Regulator in respect of the railway operations, or any part of the railway operations.

- (1c) After considering the factors referred to in subclause (1b), the Regulator—
  - (a) must notify the accredited person in writing—
    - (i) that, in addition to the annual fee referred to in subclause (1), the Regulator is considering charging the person the project component fee or fees specified in the notice; and
    - (ii) that the person may, within 7 days or such longer period as is specified in the notice, make written representations to the Regulator showing cause why the fee or fees should not be charged; and
  - (b) must consider any representations made under paragraph (a)(ii) and not withdrawn.
- (1d) For the purposes of section 76(4)(e) of the Law, a decision of the Regulator to charge a project component fee or fees is a reviewable decision to which Part 7 of the Law applies.
- (1e) If the Regulator proceeds with a decision to charge an accredited person a particular project component fee or fees, the Regulator must notify the person of that fact and include in the notice—
  - (a) the reasons why the Regulator is charging the fee or fees; and
  - (b) the total of the fees being charged; and
  - (c) the date on or before which the fee is or fees are to be paid; and
  - (d) information about the right of review under Part 7 of the Law.

### **Made by the Governor**

on the unanimous recommendation of the responsible Ministers and with the advice and consent of the Executive Council  
on 7 June 2017